

October 15, 2009

COURT NOTICE

Summary of Impact of Time Computation Changes on Local Civil, Admiralty and Maritime, and Criminal Rules of the United States District Courts for the Southern and Eastern Districts of New York

Below is a list of those Local Civil Rules, Local Admiralty Rules and Local Criminal Rules for the U.S. District Courts for the Southern and Eastern Districts of New York that reference time periods or any period of “calendar days,” “business days, or “court days,” and Southern District Rules Governing the Division of Business Among District Judges (new language underlined; deleted in brackets). The Courts adopted the new time periods effective December 1, 2009.

Local Civil Rules

Rule	Title	Present Time Period	Proposed New Time Period
1.3(a)	Admission to the Bar	10	14
1.5(d)(1)	Discipline of Attorneys	24	28
6.1(a) 6.1(b)	Service and Filing of Motion Papers	1, 4 (business days) 5, 10 (business days)	2, 7 7, 14 In computing periods of days, refer to F.R.Civ.P. 6 and Local Civil Rule 6.4
6.3	Motions for Reconsideration or Re-Argument	10	14
6.4	Computation of Time	F.R.Civ.P. 6 shall apply. <u>New Language:</u> In these Local Rules, as in the Federal Rules as amended effective December 1, 2009, Saturdays, Sundays, and legal holidays are no longer excluded in computing periods of time. If the last day of the period is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.	
7.1.1	Disclosure Statement	10 (business days)	14
12.1	Notice to Pro Se Litigant Who Opposes a Rule 12 Motion Supported by Matters Outside the Pleadings	10	14

26.1	Address of Party and Original Owner of Claim to Be Furnished	5	7
26.2(b)	Assertion of Claim of Privilege	10 (business days)	14
33.1(d)	Answering Interrogatory By Reference to Records	10	14
37.3(c) 37.3(d)	Mode of Raising Discovery and Other Non-Dispositive Pretrial Dispute With the Court (Eastern District Only)	3 3	4 4
47.1	Assessment of Jury Costs	1 (business day)	1
53.1(b)	Masters	10	21
54.1(a)	Taxable Costs	3, 6	7
77.1(a)	Submission of Orders, Judgments and Decrees	1, 3	1, 4
81.1(a)(b)	Removal of Cases from State Courts	20	21
83.1	Transfer of Cases to Another District	5	7
83.4(b) 83.4(c)(2)	Proceedings to Stay the Deportation of Aliens in Deportation and Exclusion Cases	The following business day 10	on the next day that is not a Saturday, Sunday, or legal holiday 14
83.10(e)(2) 83.10(f)(5)	Court-Annexed Arbitration (Eastern District Only)	3, 20 5, 10	4, 21 7, 14
83.11(b)(2)(B) 83.11(b)(4) 83.11(e)(2) 83.11(e)(3)	Court-Annexed Mediation (Eastern District Only)	10 7 10 (calendar days) 10 (calendar days)	14 14 14 14
83.12(h)	Alternative Dispute Resolution (Southern District Only)	10	14

Local Admiralty and Maritime Rules

Rule	Title	Present Time Period	Proposed New Time Period
C.1	Intangible Property	10	14
C.2(a)	Publication of Notice of Action and Arrest; Sale	10, 20	14, 21
D.1	Return Date in Possessory, Petitory, and Partition Acts	20	21
E.1	Adversary Hearing Following Arrest, Attachment or Garnishment	3 (court days)	7

Local Criminal Rules

Rule	Title	Present Time Period	Proposed New Time Period
12.1(b) 12.1(c) 12.1(d)	Service and Filing of Motion Papers Computation of Time	10 (business days) 5 (business days)	14 7 In computing periods of days, refer to F.R.Crim.P. 45 and Local Criminal Rule 45.1
12.4	Disclosure Statement	10 (business days)	14
44.1	Notice of Appearance	20	21
45.1	Computation of Time	<u>New Language:</u> In these Local Rules, as in the Federal Rules as amended effective December 1, 2009, Saturdays, Sundays, and legal holidays are no longer excluded in computing periods of time. If the last day of the period is a Saturday, Sunday, or legal holiday, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.	

**Rules for the Division of Business Among District Judges
(Southern District Only)**

Rule	Title	Present Time Period	Proposed New Time Period
10(b)	Criminal Motions	10 days	14

**Rules Governing the Division of Business Among District Judges
(Eastern District Only)**

Rule	Title	Present Time Period	Proposed New Time Period
50.2(f)(1)	Assignment of Cases (Eastern District Only)	10	14
50.3.1(d)	Related Civil Cases (Eastern District Only)	5 (business days)	7

**Rules Governing the Division of Business Among District Judges
(Eastern District Only)**

50.2 Assignment of Cases

(f) Objection.

Any objection by a party to designation of a judge or to place of trial shall be made by letter or motion to the judge assigned

(1) In a criminal case, within (ten days) fourteen days from arraignment or from initial notice of appearance, whichever is earlier, or

50.3.1 Related Civil Cases

(d) Judicial Determination That Civil Cases Are “Related”. Except of the cases described in the final sentence of paragraph (e), all civil cases shall be randomly assigned when they are filed. Other than the cases described in the final sentence of paragraph (e), civil cases shall not be deemed to be “related” for purposes of this guideline at the instance of any litigant or attorney unless and until there has been a determination by a judge of this court that the standard of paragraph (a) is met, i.e., that because of the similarity of facts and legal issues or because the cases arise from the same transactions or events, a substantial saving of judicial resources is likely to result from assigning both cases to the same judge and magistrate judge. Any party may apply for such a determination by filing with the clerk a letter of no more

than three single-spaced pages explaining why the standard of paragraph (2) is met and serving copies of the letter on all other parties. Such an application must be made after the date when at least a majority of the defendants have been served with the complaint, but not more than 30 days after that date unless the judge passing on the application permits a later filing for good cause shown. Before making such an application, the applicant must confer in good faith with all other parties in an effort to reach an agreement on whether or not the case is “related”. After such an application is made, any other party may serve and file within (five business days) seven days a letter of no more than three single-spaced pages supporting or opposing the application. Any determination by a judge of this court that the standard or paragraph (a) is or is not met shall be made by a judge or judges designated by the chief judge, who shall not include the judge to whom the case has been randomly assigned or the judge to whom the case will be assigned if it is determined to be “related”.

**Administrative Orders
(Eastern District Only)**

Rule	Title	Present time Period	Proposed New Time Period
2008-04	In re: Assignment of Criminal Cases	10	14

**ADMINISTRATIVE ORDER IN RE: ASSIGNMENT OF CRIMINAL CASES
ADMINISTRATIVE ORDER 2008-04**

Effective March 3, 2008 and pending further order of the Court or action by the Board of Judges, and notwithstanding any provision of Rule 50.3 of the Rules for the Division of Business Among District Judges, the Clerk of the Court is directed to assign all criminal cases randomly, unless the United States Attorney certifies in writing at the time of filing that a case to be assigned satisfies one of the three conditions in rule 50.3 (c), or involves the same specific conduct that is a subject of a pending case.

The foregoing is without prejudice to an application by any party seeking to relate a criminal case to a previously filed indictment or information on the grounds that a substantial saving of judicial resources will result or that the ends of justice and fair administration so required. Any such application shall be made on (ten days) fourteen days notice to the judge to whom the case was randomly assigned, and granted only upon a clear showing of the grounds for relief.

Comments to the above are to be submitted, in writing, on or before the close of business, Friday, November 6, 2009.

Clifford P. Kirsch
District Court Executive
U.S. Courthouse
500 Pearl Street, Room 820
New York, NY 10007-1312

or

Robert C. Heinemann
Clerk of Court
U.S. Courthouse
225 Cadman Plaza
Brooklyn, NY 11201

August 14, 2009

**REPORT OF THE JOINT COMMITTEE ON LOCAL RULES
CONCERNING AMENDMENTS TO THE LOCAL RULES
OF THE SOUTHERN AND EASTERN DISTRICTS OF NEW YORK
REQUIRED AS A RESULT OF THE TIME COMPUTATION
AMENDMENTS TO THE FEDERAL RULES**

Since the inception of the Federal Rules, intermediate weekends and holidays have been omitted in counting time periods of ten days or less. Effective December 1, 2009, this will be changed by amendments to the Federal Rules. As a result of these time computation amendments, intermediate weekends and holidays will no longer be omitted in counting any time periods (although, if a time period ends on a weekend or holiday, the counting process will continue, as it does today, until it reaches the next day which is not a weekend or holiday).

The time computation amendments will affect the calculation of time periods under the Local Rules as well as the Federal Rules. As the national Standing Committee on Federal Rules recognized, this will require amendments to the Local Rules, as of December 1, 2009, in order to avoid changing the time periods actually provided by the Local Rules. For example, today a period of five days in the Local Rules effectively means seven days or more, because weekend days are not counted. In order to keep the time period roughly the same after the December 1, 2009 amendments, such a five-day period must be replaced by a seven-day period. The Standing Committee also recommended that, insofar as possible, the time periods in the Local Rules be made even multiples of seven days (7, 14, 21, 28 days, etc.), as was done in the amended Federal Rules.

The Joint Committee on Local Rules of the Southern and Eastern Districts of New York has reviewed the Local Rules of the Southern and Eastern Districts of New York in order to identify the rules which need to be amended as a result of the time computation amendments. Attached hereto is a compendium of the Local Rules that require amendment, with the recommended amendments set forth

in legislative format (with recommended deletions in square brackets, and recommended new language underlined).

In order to avoid unnecessary dislocation and confusion, the Joint Committee strongly recommends that the Boards of Judges of the United States District Courts for the Southern and Eastern Districts of New York adopt the recommended amendments in time for them to become effective (after the required notice to the public and to the Judicial Council of the Second Circuit) on December 1, 2009.

JOINT COMMITTEE ON LOCAL RULES

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